

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

JASON NIEMAN, §  
Plaintiff, §  
v. § No. 3:14-CV-3897-M (BF)  
E. STREET INVESTMENTS, L.L.C., §  
d/b/a CONCRETE COWBOY, et al., §  
Defendants. §

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The Court has under consideration the Findings, Conclusions, and Recommendation of United States Magistrate Judge Paul D. Stickney as to Frederick P. Cerise [ECF No. 187]. Plaintiff filed objections. *See Obj.* [ECF No. 189]. The Court has made a *de novo* review of those portions of the proposed Findings, Conclusions, and Recommendation to which objections were made. The objections are overruled.

Plaintiff again requests in his objections leave to file a second amended complaint. *See Obj.* [ECF No. 189 at 1]. This Court has previously denied Plaintiff's requests for leave to file a second amended complaint on the grounds that granting such leave would be futile and cause needless delay. *See Mem. Op. & Order* [ECF No. 165 at 7-8] ("Because the Court finds that Plaintiff has pleaded his best case and that granting leave to file a second amended complaint would be futile and cause needless delay, Plaintiff's Rule 60(b) motions are denied."); *Mem. Op. & Order* [ECF No. 186 at 4] ("Because the Court finds that Plaintiff has pleaded his best case and that granting leave to file a second amended complaint would be futile and cause needless delay, Plaintiff's Rule 60(b) Motion is **DENIED.**"); *Wortham v. Chris Hansen Lab, Inc.*, No. 3:14-CV-1696-L, 2014 WL 2694194, at \*2 (N.D. Tex. June 12, 2014) ("[W]hile generally a *pro se* litigant should be offered an opportunity to amend his complaint before it is dismissed, granting leave to amend is not required if the plaintiff

has already pleaded his best case. . . . Here, Plaintiff's claims are fatally infirm. Thus, the Court concludes that granting leave to amend would be futile and cause needless delay.") (quoting *Brewster v. Dretke*, 587 F.3d 764, 767-68 (5th Cir. 2009)) (internal quotations and alterations omitted). Plaintiff's request for leave is again denied on the same grounds.

**IT IS THEREFORE ORDERED** that Frederick P. Cerise, M.D.'s Motion to Dismiss Under Federal Rule of Civil Procedure 12(b)(6) [ECF No. 136] is **GRANTED**.

**SO ORDERED** this 28<sup>th</sup> day of March, 2016.



BARBARA M. G. LYNN  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF TEXAS